

***SUBTITLE 40.6***  
***DEVELOPMENT IMPACT FEES***

**40.610 DEVELOPMENT IMPACT FEES - GENERAL PROVISIONS**

**40.610.010 STATUTORY AUTHORITY—PURPOSE**

- A. This chapter is enacted pursuant to Chapter 17, Laws of 1990, 1st Ex. Sess. or any successor state statute.
- B. It is the purpose of this chapter to:
1. Ensure that adequate facilities are available to serve new growth and development;
  2. Promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and
  3. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact.

**40.610.020 DEFINITIONS**

For the purposes of this chapter, the following definitions apply:

Applicable Development	"Applicable Development" means any subdivision or short platting of land, the construction or reconstruction of residential, commercial, industrial, public or any other building or building space, or the change in use of a building or building space, or the change in use of a building or land if approval therefore is required pursuant to Clark County Code Chapter 14.04 (Building Code), Chapter 14.32 (Mobile Home Permits), Chapter 40.540 (Boundary Line Adjustments and Land Division Ordinance) or Chapter Section 40.520.040 (Site Plan Review) and such land subdivision, construction or change in use would result in an increase in average daily traffic or residential dwelling units.
Building permit	"Building permit" means the permit required for new construction and additions pursuant to Chapter 14.04 or Chapter 14.32 of the Clark County Code. The term building permit, as used in this chapter, shall not be deemed to include: <ol style="list-style-type: none"><li>1. Permits required for the remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure; provided, that there is no increase in the applicable unit of measure (for nonresidential construction) or number of dwelling units (for residential construction) resulting therefrom;</li><li>2. Permits required for temporary dwellings approved pursuant to Section 40.260.210;</li><li>3. Permits required for placement of a mobile home within an approved mobile home park.</li></ol>
Capital facilities plan	"Capital facilities plan" means the capital facilities plan element of the Clark County comprehensive plan as amended. For the purposes of the traffic impact fee program, the capital facilities plan also includes the traffic impact fee program technical document. In the event of an inconsistency, the traffic impact fee technical impact document shall govern.
Development approval authority	"Development approval authority" means the county official or tribunal having statutory or code authority to approve a development.
Impact fee	"Impact fee" means the fee levied pursuant to this chapter as a condition of issuance of a building permit or development approval.
Low-income housing	"Low-income housing" means a single-family or multifamily rental housing development, the construction of which is either undertaken by a housing authority operating pursuant to RCW 35.82 or financially assisted pursuant to a federal, state or local governmental low-

	income housing program; provided, that the term shall apply only to the number of units within such housing development as are required to be rented to low-income tenants.
Overlay area	"Overlay area" means a special geographic area designated in a capital facilities plan to be served by a system improvement, which area is not generally contiguous with an established service area. An overlay area may be local (covering only a portion of a single service area), regional (covering portions or all of several service areas, or county wide (covering both incorporated and unincorporated areas).
Project improvements	"Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.
Public facilities	"Public facilities" means the following capital facilities owned or operated by government entities: <ol style="list-style-type: none"> <li>1. Public streets and roads;</li> <li>2. Parks, open space and recreation facilities; and</li> <li>3. Schools.</li> </ol>
Schools	"Schools" means and includes any primary or secondary public school operated by a school district whose boundaries include unincorporated areas of Clark County.
Service area	"Service area" means a geographic area described in the county capital facilities plan in which a defined set of public facilities provides service to development within the area; provided, that the service area for schools shall be the applicable school district. Service areas may be separately described for each type of public facility.
System improvements	"System improvements" means public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

#### **40.610.030            APPLICABILITY OF IMPACT FEE**

This chapter shall be uniformly applicable to applicable development as defined in Section 40.610.020 that occurs within a designated service area.

#### **40.610.040            IMPOSITION OF IMPACT FEE**

- A. No building permit shall be issued for applicable development in a designated service area as defined in this chapter unless the impact fee is calculated and imposed pursuant to this chapter.
- B. For single-family/duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated at the time of preliminary plat or short plat approval, noted on the face of the final plat, and imposed on a per lot basis at the time of building permit application. For new multifamily and nonresidential development hereafter approved, the impact fee shall be calculated at the time of site plan approval unless deferred to building permit application because the nature of the development is then not sufficiently defined to permit such calculation, and the impact fee shall be imposed at the time of building permit application. Notwithstanding the foregoing, the fee shall be recalculated for building permit applications filed more than three (3) years following the date of the applicable preliminary plat, preliminary short plat or site plan approval.
- C. For applicable development not necessitating or having been previously granted preliminary plat, preliminary short plat or site plan approval, the impact fee shall be calculated and imposed at the time of building permit application.

- D. For applicable development not necessitating a building permit, the impact fee shall be calculated and imposed at the time of site plan approval.
- E. For mobile home parks, the impact fee shall be calculated and imposed at the time of site plan approval.

#### **40.610.050 ESTABLISHMENT OF DEVELOPMENT SERVICE AREAS**

Service areas, which may vary by type of public facility, are established as shown on the Clark County facilities plan.

- A. Such areas will provide a nexus between those paying the fees and receiving the benefits to ensure that those developments paying impact fees receive substantial benefits.
- B. Overlay service areas may be established for identified system improvements designed to serve geographic areas whose boundaries are not generally coterminous with established service areas.
- C. Additional or revised service areas may be designated by the board through amendment to the facilities plan upon consideration of the following factors:
  - 1. The comprehensive plan;
  - 2. Standards for adequate public facilities incorporated in the capital facilities plan;
  - 3. The projections for full development as permitted by land use ordinances and timing of development;
  - 4. The need for and cost of unprogrammed capital improvements necessary to support projected development; and
  - 5. Such other factors as the board may deem relevant.
- D. Service areas abutting an urban growth boundary shall automatically be adjusted to conform with any change in such boundary.

## 40.620 CALCULATION OF DEVELOPMENT IMPACT FEES

### 40.620.010 TRAFFIC IMPACT FEE FORMULA

The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = F \times T \times A$$

- A. "TIF" means the traffic impact component of the total development impact fee.
- B. "F" means the traffic impact fee rate per trip in dollar amounts, for each service area. Such rate shall be established in the Traffic Impact Fee Technical Program Document for each service area by estimating the cost of anticipated growth-related roadway projects divided by the projected number of growth-related trips within that service area. Between major program updates, the calculated per trip fee will be adjusted annually to account for inflation using the Engineering News Record Construction Cost Index for Seattle.
- C. "T" means the trips generated by a proposed development and calculated according to the Traffic Impact Fee Program Technical Document, incorporated herein by this reference. The calculation of "T" described by the Traffic Impact Fee Program Technical Document includes, for some retail commercial land uses, a "business enhancement factor (BEF)" adjustment, based on policy considerations. In the absence of a land use code precisely fitting the development proposal, the Public Works director or designee shall select the most similar code and may make appropriate adjustments to the trip equation applicable thereto. In selecting the appropriate land use code and in making adjustments thereto, the director shall be guided by the most recent edition of the Trip Generation Manual, Institute of Transportation Engineers.
- D. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development which is proratable to system improvements contained in the capital facilities plan. Such adjustment for traffic impacts is determined to be fifteen percent (15%), so that "A" equals eighty-five percent (85%).

### 40.620.020 PARK IMPACT FEE COMPONENT

The impact fee component for parks, open space and recreational facilities shall be calculated using the following formula:

$$\text{PIF} = (((\text{Ca} * \text{Sa}/\text{P}) + (\text{Cd} * \text{Sd}/\text{P})) * \text{U}) - \text{A}$$

- A. "PIF" means the park, open space and recreational facility component of the total development impact fee.
- B. "Ca" means the average cost per acre for land appraisal, acquisition, closing and minimal improvement for each service area or overlay area set forth in the urban park acquisition component of the park impact fee established in the capital facilities plan. Average costs shall be calculated assuming urban park acquisition standards described in the capital facilities plan for neighborhood parks, community parks and open space. "Ca" may be adjusted periodically, but not more often than once every year.
- C. "Sa" means the parks standard in acres per thousand (1,000) residents. For the urban park acquisition component of the park impact fee for the acquisition of neighborhood parks, community parks and open space, "Sa" equals six (6) acres per thousand (1,000) residents.
- D. "Cd" means the average cost per acre of developing urban park facilities within each district. Development costs for neighborhood and community parks include improvements such as site preparation, turf and vegetation installation, irrigation, playground equipment, benches, picnic tables, restrooms, paths, walkways, fences, and

other park amenities. Sidewalk, curb and street improvements may also be included. (The average cost per acre is reduced by the amount of site preparation completed as minimal improvements during the acquisition phase.)

- E. "Sd" means the parks standard in acres per thousand (1,000) residences. For the urban park development component of the park impact fee for the development of neighborhood and community parks, "Sa" equals four and a quarter (4.25) acres per one hundred (100) residents.
- F. "P" means one thousand (1,000).
- G. "U" means the average number of occupants per dwelling unit, or 2.6 occupants for single-family/duplex dwelling units and 1.9 occupants for other multifamily dwelling units.
- H. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development which is proratable to urban park system improvements contained in the capital facilities plan. Such adjustment for park impacts is determined to be as set forth below:

Unit Type	Adjustment
Single-Family	\$228.50
Multi-Family	\$166.98

#### **40.620.030 SCHOOL IMPACT FEE—CAPITAL FACILITIES PLAN**

Clark County will collect school impact fees on behalf of any school district whose capital facilities plan has been adopted as a portion of the Clark County comprehensive plan in accordance with the provisions of this section.

- A. Plan Submittal. A school district requesting impact fees shall submit to the county, and update at least every two years, a capital facilities plan adopted by the school board and consisting of the following elements:
  - 1. A "standard of service" which identifies the program year, class size by grade span, number of classrooms, types of facilities, and other factors identified by the school district;
  - 2. The district's "capacity" over the next six (6) years based upon an inventory of the district's facilities either existing or under construction and the district's standard of service;
  - 3. A forecast of future needs for school facilities based upon the district's enrollment projections;
  - 4. At least a six- (6) year financing plan component, updated as necessary to maintain at least a six (6) year forecast period, for financing needed school facilities within projected funding levels;
  - 5. Application of the formula set out in Section 40.620.040 based upon information contained in the capital facilities plan. Separate fees shall be calculated for single-family and multifamily types of dwelling units, based upon the student generation rates determined by the district for each type of dwelling unit. If insufficient information is available for a district to calculate a multifamily student generation rate, a county-wide average shall be utilized. For purposes of this section, mobile homes and duplexes shall be treated as single-family dwellings.
- B. Planning Commission Review. The planning commission shall review a school district's capital facilities plan or plan update in accordance with the provisions of this subsection.
  - 1. Factors. The planning commission shall consider:
    - a. Whether the district's forecasting system for enrollment projections appears reasonable and reliable; and
    - b. Whether the anticipated level of state and voter-approved funding appears reasonable and historically reliable; and
    - c. Whether the standard of service set by the district is reasonably consistent with standards set by other school districts in communities of similar socioeconomic profile; and
    - d. Whether the district appropriately applied the formula set out in Section 40.620.040.

2. Public Hearing. In the event the district or the planning commission on its own motion proposes to modify the school impact fee, the planning commission shall not make its recommendation until holding a duly advertised public hearing on the proposal.
  3. Recommendation. The planning commission may request a school district to review and to resubmit its capital facilities plan or update consistent with the provisions of this section. The planning commission shall submit an annual report to the board for each school district for which school impact fees are collected.
- C. Board Action. No new or revised school impact fees shall be effective until adopted by the board following a duly advertised public hearing to consider the school district's capital facilities plan or plan update. School impact fees shall not become effective until the school district has entered into inter-local agreement provided for in Section 40.630.090.

#### **40.620.040 SCHOOL IMPACT FEE COMPONENT**

The impact fee component for schools shall be separately calculated for each participating school district using the following formula:

$$\text{SIF} = [\text{CS (SF)} - (\text{SM}) - (\text{TC})] \times \text{A} - \text{FC}$$

- A. "SIF" means the school component of the total development impact fee.
- B. "CS" means the cost of each type of facility listed in a school district's capital facilities plan attributable to new growth divided by the number of students representing a six (6) year increase in students for each type of school facility. Each type of facility means elementary school, middle school and high school.
- C. "SF" means student factor. The student factor is the number of students typically generated from one residential unit for each type of school facility. This is determined by dividing the total number of residential units in a school district into the current enrollment numbers for each type of school facility. The student factor for each school district shall be calculated annually. As provided for in Section 40.620.030(A)(5) separate student factors shall be calculated for single-family and multifamily dwelling units.
- D. "SM" means state match. State match is that amount received from the state toward school construction costs.
- E. "TC" means tax credit. This is calculated as:

$$\frac{((1+i)^{10}) - 1}{i(1+i)^{10}} \quad * \quad \begin{array}{c} \text{Average assessed value for the} \\ \text{dwelling unit within a} \\ \text{school district} \end{array} \quad * \quad \begin{array}{c} \text{Current school district} \\ \text{capital property tax} \\ \text{levy rate} \end{array}$$

where i = the average annual interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.

- F. "FC" means facilities credit. This is the value of any improvements listed in a school district's capital facilities plan provided by the developer.
- G. "A" means an adjustment for the portion of the anticipated increase in the public share resulting from exempt residential development pro-ratable to new residential development. This adjustment for school impact is determined to be eighty-five percent (85%).

## **40.630 PROCEDURES**

### **40.630.010 IMPACT FEE REVISION**

Impact fee rates shall be adjusted periodically to reflect changes in costs of land acquisition and construction, facility plan projects and anticipated growth. Such adjustments shall only become effective upon adoption by the board of a modification to the capital facilities plan; provided, that the capital facilities plan may contain provision for automatic revision of an impact fee rate no more often than annually to reflect the change in a generally recognized and applicable inflation/deflation index.

### **40.630.020 IMPACT FEE SCHEDULE**

The responsible official shall maintain and update as necessary a schedule of current impact fee rates.

### **40.630.030 CALCULATION OF IMPACT FEE**

- A. The impact fee for a nonresidential development shall be computed by applying the traffic impact fee formula set out in Section 40.620.010. The impact fee for a residential development shall be computed by applying the traffic impact fee, park impact fee and school impact fee formulae set out in Sections 40.620.010, 40.620.020 and 40.620.040 combining the results; provided, that the school impact fee component shall not apply to housing which by design or restrictive covenant is exclusively for persons sixty-two (62) years of age or older.
- B. If the development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.
- C. The development approval authority setting the impact fee upon application by the developer supported by studies and data may reduce or eliminate such fee if it is shown that:
  - 1. The formulae contained in Sections 40.620.010, 40.620.020 and/or 40.620.040 do not accurately reflect traffic, park or school impact; or
  - 2. Due to unusual circumstances:
    - a. Facility improvements identified for the applicable service area are not reasonably related to the proposed development, or
    - b. Such facility improvements will not reasonably benefit the proposed development; or
  - 3. The current development proposal implements a concomitant rezone agreement or other development approval pursuant to which public facilities were dedicated or constructed prior to October 1, 1984, which are of benefit to the community at large and which otherwise likely would have been designated as system improvements.
- D. Prior to making an application for a building permit or site plan approval, an applicant upon payment of the applicable fee provided for in Title 6, may request an impact fee determination from the director, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the county for a period of one (1) year unless there is a material change in the development proposal, the capital facilities plan or this chapter.

### **40.630.040 COLLECTION OF IMPACT FEE**

The impact fee imposed under this chapter shall be due and payable at the time of issuance of a building permit (or site plan approval when no building permit is required) for the development.

### **40.630.050 IMPACT FEE EXEMPTIONS**

The following developments shall be exempt from the requirement for payment of impact fees:

- A. Publicly operated primary and secondary schools, including facilities of an E.S.D. District.
- B. The impact fee for an exempt development shall be calculated as provided for in this chapter and paid with public funds. Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area.

#### **40.630.060      IMPACT FEE CREDITS**

- A. The developer shall be entitled to a credit against the applicable impact fee component for dedication of land for, and reasonable documented construction acceptable to the county engineer associated with the improvement to, or new construction of, any system improvements provided by the developer (or the developer's predecessor in interest), to facilities that are identified in the capital facilities plan in place at the time impact fees are calculated or recalculated as set forth in Section 40.610.040 and Section 40.630.030. Such dedication or construction must be required by the county as a condition of approval for the immediate development proposal. Credits shall be issued at the time impact fees are imposed as set forth in Section 40.610.040.
- B. For the traffic component of the impact fee, credits shall be based upon estimated costs set forth in the capital facilities plan. Credit shall be calculated by multiplying the proportion of the total system improvement being provided by the developer times the estimated cost of such system improvement in the capital facilities plan; provided, that the County Engineer may adjust the credit to account for extraordinary cut, fill or structural costs which are reflected in the plan estimate.
- C. Additionally, the developer may be provided a credit against the impact fee in an amount up to ten percent (10%) of the traffic component thereof for the value of mass transit facilities that are approved by the county and made a condition of approval for the development.
- D. Where impact fees are owing prior to completion of a system improvement undertaken by the developer, the impact fee shall be reduced by eighty-five percent (85%) of the allowable credit up to the amount of the impact fee for the subject development when the system improvements have been assured by a bond or other guarantee to be completed no later than the date of occupancy for commercial/industrial/multifamily structures or the final building inspection for single-family and other uses. Upon completion of the required system improvement, the remainder of the credits will be issued.
- E. Credits recognized by the county may be utilized in lieu of cash payment of impact fees for the subject development and/or any other development within the same service area; provided, that PIF credits shall first be applied to offset impact fees for the subject development.

#### **40.630.070      APPEALS**

The determination of the development approval authority as to the applicability and amount of and credit against an impact fee shall be appealable as provided for in this section. In the case of impact fees set pursuant to residential subdivision, residential short subdivision or site plan approval, the appeal shall be filed in conjunction with, and within the limitation period applicable to, the available administrative appeal from such approval. In the case of impact fees first imposed or recalculated or credits determined in conjunction with a building permit not involving subdivision, short subdivision or site plan approval, the appeal shall be filed pursuant to Chapter 40.510. The decision of the hearings examiner shall be appealable to the board as provided for in said chapter.